

**PROPERTY ACQUISITION PROCEDURES
FOR ACQUIRING RIGHT OF WAY
AND CERTIFICATION STEPS
FOR TRANSPORTATION ENHANCEMENT & LCI PROJECTS**

I. PRE-ACQUISITION ACTIVITIES

- 1. APPROVED R/W PLANS:** Sponsor is responsible to submit R/W Plans to the Project Manager for approval. Once R/W plans are approved, the Project Manager will provide the Sponsor with approved R/W plans.
- 2. RIGHT OF WAY NOTICE TO PROCEED:** When the Environmental Approval has been obtained and Right of Way plans have been approved, the Project Manager will issue a R/W Notice To Proceed to the Sponsor, along with a copy of these guidelines, and will forward a copy of the NTP to the District Local Government Coordinator. The District L.G.C. will then request a reviewer be assigned. **NO RIGHT OF WAY MAY BE ACQUIRED OR DONATED PRIOR TO THIS OCCURRENCE.**
- 3. SELECTION OF ATTORNEY & PRELIMINARY TITLE REPORT:** Sponsor should select an attorney. A Preliminary Title Report (PTR) should be prepared. FHWA requires that a PTR be prepared on each parcel being acquired. However, a title report is not required for driveway easements only, but verification of ownership is required. If attorney needs a sample of the PTR or Ownership Verification form, contact your District L.G.C. Once PTR are completed, copies of the PTR should be provided to the Sponsor. Sponsor should check PTR to verify that the plans are correct in relation to the PTR. Sponsor should provide copies of the PTR to the appraiser and negotiator.
- 4. CONTAMINATION:** Obtain a Property Contamination Report if you suspect any contamination or if any prior use of the property indicates a use, which may have created a source of contamination. Sponsor may contact the Project Manager for guidance if they suspect contamination.
- 5. COST ESTIMATE:** On every project, the Sponsor shall prepare a Cost Estimate and maintain a copy in their project file. The Cost Estimate must be prepared by a Certified Appraiser on the DOT approved list and must be completed on the DOT Cost Estimate form. (Cost Estimate Form is provided on this Web Page under R/W Forms.) This will assist the Sponsor in determining their R/W budget needs and will satisfy specific Federal Requirements. The Cost Estimate will be prepared prior to the field review of the project with the DOT Review Appraiser. Once the Cost Estimate is reviewed and approved by the DOT Review Appraiser, donations and/or offers (as outlined in II. And III. 1.c. below) can be made.

6. **REVIEW APPRAISER ASSIGNMENT:** D.O.T. will assign a Review Appraiser to review the project with the District L.G.C. and the sponsor to determine appraisal needs.
7. **PROPERTY OWNERS MEETING:** A property owners meeting should be held if a significant amount of parcels are being acquired (15 or so), or if displacees are involved. (Contact the District L.G.C. for guidance.)
8. **INTERVIEWS OF DISPLACEES:** If Relocation is involved, Relocation Interviews must be conducted. (See Section VI for further guidelines.)

II. DONATIONS

1. Sponsor may seek a donation provided the environmental approval has been obtained; the R/W plans have been approved; the R/W NTP has been issued; and the Cost Estimate (as outlined in I.5 above) has been prepared; and the owner has been advised that he is entitled to receive just compensation. The owner must sign a “Waiver Letter”; and the owner must be provided a Brochure. (The “Waiver Letter” is provided under R/W Forms on this Web Page.)
2. **NOTE:** If an owner elects to donate their property, they are still entitled to request that an appraisal be prepared (usually for tax purposes).
3. If a donation is obtained, Items in Section IV., C.D.G. and Section V., are also required.

III. VALUATION DETERMINATION AND VALUATION PROCESS

1. **VALUATION METHODS:** The Review Appraiser will recommend which of the three valuation methods will be used.
 - a. **APPRAISAL REPORT** – This method of valuation must be used if one of the following occur: 1) the Review Appraiser suspects consequential damages to a parcel 2) the estimated value of a parcel is over \$15,000.00 or 3) the property owner elects to have an appraisal report prepared. The selected appraiser must be on the Department’s approved appraiser list and must be qualified to perform the level of work as designated by the review appraiser. The completed Appraisal Report will need to be submitted to the District L.G.C. for review & approval. A copy of the appraisal is not to be given to the owner.

- b. **RIGHT OF WAY SALES DATA BOOK** – This method of valuation may be used if all of the following criteria are met: 1) no consequential damages are anticipated (uncomplicated parcel); 2) value is \$15,000.00 or less. The selected appraiser preparing the Data Book must be on the Department’s approved appraiser list. The completed Sales Data Book and Value Ranges will need to be submitted to the District L.G.C. who will forward to the Reviewer for review & approval prior to any offers being made. (Refer to R/W Memo 03-4 under the R/W Forms section on this web page). The estimated value should be developed as follows:

ESTIMATE OF APPRAISAL CALCULATION FORM – This form is used to calculate an estimated value on parcels outlined in III.1.(b) above. The estimated value is determined from an established range of values shown in the approved Sales Data Book. **This form is not furnished to the owner.** Also, there is a place to list any improvements that may be in the acquisition area & a place to list the value for those improvements. (This form may also be found in this web page under R/W forms.)

- c. **RIGHT OF WAY COST ESTIMATE** – This method of valuation may be used if all of the following criteria are met: 1) no consequential damages are anticipated (uncomplicated parcel); 2) value is \$5,000.00 or less. All comparable sales must be verified with grantor or grantee. The selected appraiser preparing the Cost Estimate must be on the Department’s approved appraiser list. The completed Cost Estimate will need to be submitted to the District L.G.C. to forward to the Reviewer for review & approval prior to any offers being made.

(Refer to R/W Memo 03-5 included in this web page under R/W forms.)

If this method is determined acceptable by the DOT Reviewer, the Cost Estimate outlined in I.5 “Pre-Acquisition Activities” above, will satisfy this requirement.

4. **APPRAISER SELECTION PROCESS**: The Sponsor will select an appraiser from the approved DOT List to perform one of the methods outlined in III.1 above. The appraiser must be qualified to perform the level of work as recommended by the Review Appraiser.
5. **REVIEW PROCESS**: The Cost Estimate; NFS Data Book; and/or Appraisal must be turned in to the Sponsor who in turn will forward to the District L.G.C. for submission to the Review Appraiser. Once the Reviewer completes his review, he will issue approval of the cost estimate and/or Data Book. If the property was appraised, he will release a 532 form, which will establish the value of the property. Approval of these documents will be forwarded to the District L.G.C. who will submit to the Sponsor.

IV. NEGOTIATIONS

Negotiations will be conducted by a qualified member of your agency's staff and in accordance with all Federal Laws and Regulations to include the Uniform Act and 49 CFR-Part 24 and 23 CFR- Part 710. In cases where you have insufficient staff to perform negotiations, fee negotiators may be hired. Sponsor may contact District Local Government Coordinator or State R/W Consultant Coordinator, at 404-657-8473 who can provide them with a list of qualified Pre-Acquisition; Acquisition; and/or Relocation Consultants.

Sponsor will prepare an offer package in accordance with the guidelines outlined below. Also, refer to Section "I" "Negotiation Packages" to determine which documents must be used in relation to the specific type offer being made. The following documents must be used during the negotiation phase of your project, pertinent to the type of offer being made.

- a. **OFFER LETTER** – This must be typed on Local Government letterhead. The offer letter must include the following: Description of the real property interest being acquired (to include the acreage to be acquired) and the value being offered, including any damages that may be found. The offer should be made to the property owner promptly after receiving the approved Appraisal Report or the approved Data Book and Value Ranges or the approved Cost Estimate from the Department. A written offer must be made to the property owner.
- b. **STATEMENT OF ESTIMATED VALUES** – This document should include the following: Offer amount (to include breakdown of Land Value and Improvements/Consequential damages/Remnant value); Property location; Retention values; and Division of ownership interest. The negotiator needs to sign and date this form.
- c. **WAIVER LETTER** – This letter should only be used when seeking donations or when negotiating from an approved Sales Data Book using Value Ranges. The property owner should sign the Waiver Letter to negotiate for services prior to an offer being made. If the owner elects to have an appraisal prepared, instead of negotiating for services, proceed with having an appraisal prepared. These choices must be explained to the property owner. If owner refuses to sign the Waiver Letter, proceed with the appraisal process.

- d. **BROCHURE AND RECEIPT FOR BROCHURE** – This Brochure explains the acquisition procedures & relocation assistance benefits. The Brochure also tells the property owner why their property is needed for a transportation facility and what their rights are as an affected property owner. A Receipt for Brochure should be signed by every owner and placed in the negotiation file. If owner refuses to sign, still provide him with the Brochure but make a note on Receipt stating he refused to sign and place in file.
- e. **AVAILABILITY OF INCIDENTAL PAYMENTS** – This document outlines what payments the owner is eligible to receive as a result of the acquisition as well as certain items that he may be eligible to receive through the reimbursement process. (Some things that are reimbursable include pro-rata portion of the taxes, recording or cancellation fees, survey fees to reestablish property pins that were removed as a result of the construction.)
- f. **AGREEMENT TO PURCHASE REAL ESTATE/OPTION** – This document is to be provided to the owner with the offer package.
- g. **NEGOTIATION RECORDS** – This must be filled out after each contact outlining in detail what was discussed with the owner along with the date of contact. If a settlement is reached with the owner, the negotiation record must be signed and dated by the negotiator. It is imperative that an accurate, legible, & detailed record of the transactions between the local government/consultant & the property owner are maintained in this manner due to potential condemnations and conflicts once the project is let to construction.
- h. **COUNTER OFFERS** – If Federal aid funds are being used in the R/W acquisition phase of the project, a written counter offer analysis must be provided to justify the increase. The State Local Government Coordinator must approve the counter offer analysis.

i. Negotiation Packages

(1) <u>Offer Pkg</u> <u>When Appraised</u>	(2) <u>Uneconomic Remnant Owner</u>	(3) <u>Neg from a Cost Est.</u> <u>(Under \$5,000)</u>
Offer Letter	Offer Letter	Offer Letter
Statement	Statement	Statement
Brochure	Brochure	Brochure
Receipt	Receipt	Receipt
Incidental	Incidental	Incidental
Agreement to Purchase	Agree to Purchase	Agree to Purchase
Neg. Record	Neg. Record	Neg. Record
	Neg. From Data Book/	
(4) <u>Leased Fee Owner</u>	(5) <u>Negotiate for Services (NFS)</u> <u>(Under \$15,000)</u>	(6) <u>Driveway Owner</u>
Offer Letter	Waiver Letter	Notification Letter
Statement	Offer Letter	Brochure
Brochure	Statement	Receipt
Receipt	Brochure	Neg. Record
Incidental	Receipt	Driveway Ease
Agree to Purchase - Total	Incidental	
Agree to Purchase- L. Fee	Agree to Purchase	
Neg. Record	Neg. Record	
(7) <u>Leasehold Tenant</u>	(8) <u>Improvement/Trade Fixture</u> <u>Tenant</u>	(9) <u>Trade Fixture Sign Only</u>
Offer Letter	Offer Letter	Offer Letter
Statement	Statement	Sign Release
Brochure	Brochure	Neg. Record
Receipt	Receipt	
Incidental	Incidental	
Agree to Purch/Lhold	Agreement to Purchase	
Neg. Record	Neg. Record	
(10) <u>Donation Package</u>		
Waiver Letter/Donation Letter		
Brochure		
Receipt		
Incidental		
Neg. Record		

V. NEGOTIATION FILES -The Sponsor will be required to keep a separate file on each parcel in which right of way is being required. The completed parcel file must include the following:

Copies of the Preliminary Title Report
Documentation of the Valuation Method Used (Appraisal/Estimate of Appraisal Calculation Form)
Signed Receipt for Brochure
Offer Letter
Waiver Letter
Statement of Estimated Values
Incidental Letter
Negotiation Records
Executed Agreement to Purchase/Option
Deeds and/or Easement Documents
Owner's Affidavits
Settlement and Disbursement Statements
Final Titles

The Data Book and Cost Estimate should be kept in your general project file.

VI. RELOCATION (Unlikely to Occur on an Enhancement Project)

1. If Relocation is required, the relocation package is to be prepared by the Sponsor (or Agent/Consultant). Displacee is interviewed on appropriate DOT Form. The relocation package must be reviewed and approved by the DOT Relocation Office prior to making the offer. The relocation package must be submitted to the District L.G.C. who in turn will submit to the Relocation Office. All Relocation Activities must be conducted by a qualified Relocation representative. (If Relocation is involved, contact D.L.G.C. for further instructions.)
2. No person occupying real property or having personal property located within required R/W and/or easement, shall be required to vacate from his home, farm or business prior to 90 days from the date they were first and formally contacted in regard to the purchase of the occupied property, nor less than 60 days from the date of the acquisition. A Notice to Vacate will be issued to any displaced person at closing.

VII. CLOSINGS

Closings will be conducted by Sponsor's Attorney. Local Governments may elect to close without obtaining lien releases, provided owner can convey clear title with noted exceptions; and provided the property acquisition amount does not exceed \$15,000; and provided the remainder property value satisfies the outstanding lien amounts. A form is required when these type exceptions are made. (See copy of this form on this web page under R/W forms.) If this exception is made, it is entirely up to the discretion of the Local Government. The following closing documents are required. (Copies are provided on the R/W Forms section of this web site.)

1. **RIGHT OF WAY DEEDS/EASEMENTS** – Preparation of any Deeds and/or Easements, to include legals and plats, will be the responsibility of the Sponsor's Attorney. Recording of these documents will also be the responsibility of the Sponsor's Attorney.
2. **SETTLEMENT & DISBURSEMENT STATEMENT** – This document acknowledges that the transaction occurred and that specific funds were disbursed. This document also serves as a "Notice to Proceed" to remove all on-site trade fixtures and/or retained improvements. (This "Notice to Proceed" gives the property owner 30 days to remove these items or the items will be considered abandoned & the Local Govt. will be responsible for removing or having these items removed.)
3. **OWNERS AFFIDAVIT (SELLER'S AFFIDAVIT)** – In this document, the owner attests that he/she owns the property and that he/she can convey clear title (with exceptions shown) and that there are no additional liens on the property that have not been disclosed.
4. **FINAL TITLE CERTIFICATE** – The closing attorney will provide these certificates after the parcels are closed and the deeds/easements have been recorded. The parcel number; property owner's name; the deed/easement recording data; and verification of good/marketable title (with noted exceptions) should be included on the certificate.
5. **QUIT CLAIM DEEDS** – This document releases whatever ownership interest a person/entity may have in the subject property. This will assist attorney in obtaining clear title to the property. (EX: Lien holder interest; tenant interest; leasehold interest; property line dispute issues; easement interests, etc.)

VIII. UNECONOMIC REMNANTS – **If an uneconomic remnant has been determined by the review appraiser, an offer must be made to purchase the remainder.** See appropriate offer letter. Also, the remnant should be acquired under an "R" deed as a separate parcel and the limits of acquisition should be clearly identified on the plat. (See "R" deed under R/W Forms on this Web Page.)

IX. PROPERTY MANAGEMENT ISSUES – If there are structures located within the required R/W, the R/W should be cleared prior to Letting the Project. (Contact your District L.G.C. for guidance.)

X. R/W CERTIFICATION

1. The R/W check list must be completed prior to R/W Certification of the Project.
2. Once all properties are acquired, the Sponsor will send the R/W certification document (see forms under R/W forms on this web page) to the Project Manager who in turn will submit to the District L.G.C. The District L.G.C. will audit all files on the project, along with the Project Manager, before recommending approval of the Certification. The Certification will be forwarded to the State L.G.C. for review and approval. Certification states that all R/W was acquired in accordance with the Uniform Act and with 49 CFR – Part 24 and 23 CFR- Part 710.
3. Construction funds cannot be authorized until the Department certifies the R/W to FHWA and environmental approval have been obtained.

FAILURE TO COMPLY WITH THE PROVISIONS OF THE UNIFORM ACT MAY RESULT IN DENIAL OF FEDERAL PARTICIPATION IN PROJECT COSTS.

If you have questions regarding R/W issues, contact the District L.G.C

<u>District</u>	<u>Telephone #</u>
District 1 – Gainesville	770-718-5015
District 2- Tennille	478-552-4611
District 3 – Thomaston	706-646-6602
District 4 – Tifton	229-386-3030
District 5 – Jesup	912-427-5793
District 6- Cartersville	770-387-3620
District 7 – Chamblee	770-986-1555
State Local Government Coordinator	
Atlanta	404-657-8476

For all other questions, contact your T.E. Project Manager.

2-29-04